

**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

JOSE J. MIRELES,

Plaintiff,

v.

GENERAL MOTORS LLC, et al.

Defendant.

Case No. 5:23-cv-01717-SSS-JPRx

**ORDER DENYING
PLAINTIFF'S MOTION TO
REMAND [DKT. 17]**

Before the Court is Plaintiff Jose Mireles' Motion to Remand Case to Riverside Superior Court (the "Motion") filed on October 3, 2023. [Dkt. 17]. On November 3, 2023, Defendant General Motors ("GM") filed its opposition to the Motion. [Dkt. 23]. On November 8, 2023, Mireles filed his reply to GM's opposition. [Dkt. 24]. This matter is fully briefed and ripe for review. Having reviewed the relevant pleadings, and the law regarding this issue, the Court **DENIES** Mireles' Motion in accordance with the opinion below.

I. BACKGROUND

This case arises out of Mireles' purchase of a 2019 Chevrolet Bolt. [Dkt. 1-1 at 4]. Mireles claims he brought the Bolt new and that, after purchase, the Bolt began to exhibit "defects, non-conformities, ... , [and] malfunctions" in

violation of GM’s express and implied warranties. *Id.* at 5 and 10. Mireles filed this action on July 27, 2023, asserting three causes of action under the Song-Beverly Act, one for fraud, and one for violation of California’s Business & Professions Code § 17200. [Dkt. 1 at 2]. GM removed this action to this Court on August 23, 2023.¹ [Dkt. 1].

Importantly, the suggested retail price for a 2019 Chevrolet Bolt is \$38,639. *Id.* at 4. In his Complaint, Mireles seeks a variety of remedies including “rescission of the purchase contract,” a “civil penalty in the amount of two times Plaintiff’s actual, incidental, and consequential damages,” and “for restitution of all monies expended.” [Dkt. 1-1 at 20].

II. STATEMENT OF LAW

Federal courts are courts of limited jurisdiction. *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). Thus, federal courts can only hear cases if “there is a valid basis for federal jurisdiction.” *Ayala v. Am. Airlines, Inc.*, No. 2:23-cv-03571-MEMF-MAR, 2023 WL 6534199, at *1 (C.D. Cal. Oct. 6, 2023) (citing *Richardson v. United States*, 943 F.2d 1107, 1112 (9th Cir. 1991)).

When a plaintiff files their complaint in state court, a defendant may remove the case to federal court if the case could have been brought originally in federal court. 28 U.S.C. § 1441(a). If a plaintiff contests the removability of an action, the burden is on the removing party to show by a preponderance of the evidence that the requirements for removal were met. *See Dart Cherokee Basin Operating Co., LLC v. Owens*, 574 U.S. 81, 82 (2014); *Emrich v. Touche Ross & Co.*, 846 F.2d 1190, 1195 (9th Cir. 1988). “Under 28 U.S.C. § 1332, a district court has original jurisdiction over a civil action where (1) the amount in

¹ Because GM removed the action within 30 days of being served with the Complaint, the removal is timely. *See* 28 U.S.C. 1446.

1 controversy exceeds the sum or value of \$75,000, exclusive of interest and
 2 costs, and (2) the dispute is between ‘citizens of different States.’” *Jimenez v.*
 3 *General Motors, LLC*, No. 2:23-cv-06991 WLH (JPRx), 2023 WL 6795274, at
 4 *2 (C.D. Cal. Oct. 13, 2023).

5 It is well settled that a corporation is a citizen of every state in which it
 6 has been incorporated and of the state in which it has its principal place of
 7 business. *3123 SMB LLC v. Horn*, 880 F.3d 461, 462–63 (9th Cir. 2018); 28
 8 U.S.C. § 1332(c)(1). A corporation’s principal place of business is the location
 9 from which its “officers direct, control, and coordinate the corporation’s
 10 activities.” *Hertz Corp. v. Friend*, 559 U.S. 77, 92–93 (2010). A Limited
 11 Liability Corporation (“LLC”) “is a citizen of every state of which its
 12 owners/members are citizens.” *Johnson v. Columbia Props. Anchorage, LP*,
 13 437 F.3d 894, 899 (9th Cir. 2006).

14 If there is any doubt as to the right to removal, a court must remand the
 15 action to state court. *See Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992)
 16 (stating “[f]ederal jurisdiction must be rejected if there is any doubt as to the
 17 right of removal in the first instance”); *see also Matheson v. Progressive*
 18 *Specialty Ins. Co.*, 319 F.3d 1089, 1090 (9th Cir. 2003) (citing *Gaus*, 980 F.2d
 19 at 566)).

20 **III. DISCUSSION**

21 Here, Mireles’ position boils down to one simple argument, GM has
 22 failed to meet its burden in establishing removal was proper. [Dkt. 17 at 7].
 23 Such an attack is a “facial challenge” to the removal, meaning it “accepts the
 24 truth of the [removing party’s] allegations but asserts that they are insufficient
 25 on their face to invoke federal jurisdiction.” *Dalton v. FCA US LLC*, No. 8:20-
 26 cv-00694-JLS-DFM, 2020 WL 3868389, at *1 (C.D. Cal. July 9, 2020) (quoting
 27 *Ehrman v. Cox Commc’ns, Inc.*, 932 F.3d 1223, 1228 (9th Cir. 2019)).
 28

1 For the reasons stated below, Mireles' argument fails. Thus, the Court
2 **DENIES** Mireles' Motion.

3 **A. GM Successfully Established Complete Diversity**

4 Here, GM successfully established complete diversity between the
5 Parties. In the Notice of Removal, GM alleged Mireles is a citizen of
6 California, and GM is a citizen of Delaware and Michigan. [Dkt. 1 at 3]. In
7 support of these statements, GM provided a declaration from John Kim, GM's
8 Assistant Corporate Secretary, that establishes GM is a citizen of Delaware and
9 Michigan by stating GM is wholly owned by General Motors Company, a
10 Delaware corporation with its principal place of business in Michigan. [Dkt.
11 23-2 at 4; Dkt. 1 at 4]. Courts routinely find such declarations sufficient to
12 establish the citizenship of a corporate entity. *See e.g., McDonald v. Gen.*
13 *Motors, LLC*, 23-cv-01584-CJC (DFMx), 2023 WL 7019171, at *2 (C.D. Cal.
14 Oct. 25, 2023) (finding a defendant sufficiently established its principal place of
15 business was in Michigan by submitting a declaration of its counsel stating as
16 such); *Deleon v. Gen. Motors, LLC*, No. 23-cv-01590-CJC(DFMx), 2023 WL
17 7019169, at *2 (C.D. Cal. Oct. 25, 2023) (holding the same); *Gonzales v.*
18 *Starwood Hotels*, No. 16-cv-1068-GW (JEMx), 2016 WL 1611576, at *4 (C.D.
19 Cal. Apr. 21, 2016) (collecting cases).² As such, the Court finds GM carried its
20 burden in establishing it is a citizen of Michigan and Delaware.

21 Thus, based on the record before the Court, the Court finds for purposes
22 of diversity jurisdiction that Mireles is a citizen of California, and GM is a
23 citizen of Delaware and Michigan. Because Mireles did not substantively
24 challenge GM's allegations of citizenship, and the Parties are citizens of
25 different states, the Court finds GM established by a preponderance of the
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27 ² Mireles' status as a citizen of California is established by his self-
28 identification as a resident of the City of Hemet in California. [Dkt. 1-1 at 3].

1 evidence that there is complete diversity between the Parties. *See Dalton*, 2020
2 WL 3868389, at *1; [Dkt. 23-2 at 3–4].

3 **B. GM Successfully Established the Amount in Controversy**
4 **Exceeds \$75,000**

5 For a case to be removable under diversity jurisdiction, the amount in
6 controversy must exceed \$75,000. 28 U.S.C. 1332(a). As is the case here,
7 when the plaintiff’s state court complaint does not specify a particular amount
8 of damages, and the plaintiff attacks the defendant’s notice of removal on the
9 amount in controversy requirement, the burden is on the removing party to
10 establish by a preponderance of the evidence that that the amount in controversy
11 threshold is met. *See Canela v. Costco Wholesale Corp.*, 971 F.3d 845, 849 (9th
12 Cir. 2020).

13 In the Ninth Circuit, “the amount in controversy includes all relief
14 claimed at the time of removal to which the plaintiff would be entitled if [they]
15 prevail[.]” *Chavez v. JPMorgan Chase & Co.*, 888 F.3d 413, 418 (9th Cir.
16 2018). Importantly, when determining the amount in controversy, “courts are to
17 consider the ‘maximum recovery the plaintiff could reasonably recover’”
18 against a defendant. *Selinger v. Ford Motor Comp.*, No. 2:22-CV-09993-SPG-
19 KS, 2023 WL 2813510, at 9 (C.D. Cal. Apr. 5, 2023) (quoting *Arias v.*
20 *Residence Inn by Marriot*, 936 F.3d 920, 927 (9th Cir. 2019)).

21 Here, GM has met its burden in establishing that the amount in
22 controversy exceeds \$75,000. Because Mireles seeks rescission of the purchase
23 contract and restitution of all monies expended under the contract, the Court
24 finds Mireles has put the estimated price of a 2019 Chevrolet Bolt, \$38.639, in
25 controversy for purpose of determining the amount in controversy calculation.³

26
27 ³ While Mireles’ Complaint does not specifically state the contract price of the
28 2019 Chevrolet Bolt he purchased, the Court finds the average price of \$38,639,
as supported by the declaration of Timothy Kuhn, to be a proper estimate of the

1 *See Selinger*, 2023 WL 2813510, at *9 (noting by seeking recovery of the
2 contract price in the complaint, the plaintiff put the value of the contract at issue
3 for purposes of determining the amount in controversy).

4 Moreover, Mireles's Complaint also seeks a civil penalty in the amount of
5 two times Mireles' total damages. [Dkt. 1-1 at 20]. California Civil Code §
6 1794(c) allows for the recovery of a civil penalty, no greater than two times the
7 amount of actual damages, if a plaintiff can establish the defendant's conduct
8 was "willful." While courts in the Ninth Circuit disagree as to whether civil
9 penalties should be considered in calculating the amount in controversy, this
10 Court finds, because the Ninth Circuit has directed courts to consider the
11 maximum amount a plaintiff could reasonably recover, that when a plaintiff
12 pleads a defendant's conduct in a Song-Beverly action was willful, civil
13 penalties should be considered in the amount in controversy. *See Arias*, 936
14 F.3d at 927; *see also Selinger*, 2023 WL 2813510, at *9 (collecting cases).

15 Here, Mireles plead in his Complaint that GM's conduct was "willful."
16 [Dkt. 1-1 at 9]. As such, Mireles could reasonably recover a civil penalty under
17 California Civil Code § 1794(c), and thus the Court finds it proper to consider
18 the civil penalties in considering the amount in controversy.

19 Setting aside Mireles' other claimed damages such as attorney's fees, and
20 focusing only on the contract price, the Court finds the civil penalty amount
21 would be \$77,278. Because \$77,278. exceeds the \$75,000 threshold for
22 diversity jurisdiction, the Court finds GM met its burden in establishing the
23 amount in controversy requirement was met.

24 **IV. CONCLUSION**

25 Because GM established by a preponderance of the evidence that there is
26 complete diversity between the Parties, and the amount in controversy exceeds
27

28 value of the contract. [Dkt. 1-3 at 2].

1 \$75,000, the Court finds diversity jurisdiction existed over this case at the time
2 of removal. 28 U.S.C. 1332(a). Thus, the Court finds removal was proper
3 under 28 U.S.C. § 1441(a) and **DENIES** Mireles' Motion to Remand. [Dkt.
4 17].

5 **IT IS SO ORDERED.**

6
7 DATED: November 30, 2023



SUNSHINE S. SYKES
United States District Judge